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ONPARS TECHNOLOGIES, INC.
P.O. BOX 112383
CARROLLTON, TX 75011-2383

In re Application of
Richard W. Reichert
Application No. 09/398,131
Filed: September 17, 1999
Attorney Docket No. COM675/96112

DECISION ON PETITION

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via facsimile transmission on November 2, 2003.

The petition is **GRANTED**.

The Notice of Abandonment states that the application was held abandoned for failure to timely file formal drawings as required in the Notice of Allowability. However, the reason for the abandonment of the application was failure to timely respond to the Notice Of Drawing Inconsistency With Specification, mailed July 11, 2003.

Petitioner argues that "specific office communications requiring reply by the USPTO were mailed, but were never received by the applicant". The office communication, as identified by Petitioner, were the communication referred to as the Inconsistency Letter, mailed on July 11, 2003 and the Notice of Abandonment, mailed September 24, 2003. Petitioner documented sequence of events, demonstrates the problems with the United State Postal Service..

In absence of any irregularity in the mailing of the Notice, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the practitioner did not receive the Office action, and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Action Are Not Received" MPEP 711.03(c) II

Petitioner has met the above-stated conditions. Accordingly, the holding of abandonment is hereby withdrawn.

The Amendment accompanying the petition, is in response to the Notice Of Drawing Inconsistency With Specification, which was faxed to Petitioner by Examiner, Thomas Dixon, Art Unit 3629.

The Amendment requesting to remove erroneously included drawing figure 10, has been entered and figures 10 removed, as requested.

The application will be forwarded to the Publishing Division to be processed in to a patent.



Thomas Hawkins
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